

Decision for dispute CAC-UDRP-105167

Case number	CAC-UDRP-105167
Time of filing	2023-02-02 08:34:43
Domain names	schneiderelectrlc.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	SCHNEIDER ELECTRIC SE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Albert Herrera
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the terms "SCHNEIDER ELECTRIC" (hereinafter referred to as the "Trademark"), such as:

- The international trademark SCHNEIDER ELECTRIC n° 715395 registered since 1999-03-15;
- The international trademark SCHNEIDER S ELECTRIC n° 715396 registered since 1999-03-15;
- The European trademark SCHNEIDER ELECTRIC n° 1103803 registered since 1999-03-12.

The Complainant is also the owner of many domain names which include the trademark SCHNEIDER ELECTRIC® such as <schneider-electric.com> registered and used since 1997-10-03

FACTUAL BACKGROUND

The Complainant is a French industrial business trading internationally, founded in 1871. It manufactures and offers products for power management, automation, and related solutions. The Complainant is featured on the NYSE Euronext and the French CAC 40 stock market index.

The Complainant provides information on its services online inter alia at <schneider-electric.com>.

The disputed domain name <schneiderelectrlc.com> was registered on January 25, 2023 and is currently not actively used, redirecting to the Registrar's parking page.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its well-known Trademark at the time of registration of the disputed domain name and that the Respondent's passive holding of the disputed domain name and the set up of MX records (which suggests that it may be actively used for email purposes) is evidence of bad faith.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates it. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the

Policy despite the typosquatting of the letter "l" instead of the letter "i".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and well-known.

3.2 Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (*cf Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574; Ladbroke Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131*). Furthermore, the Panel agrees that the set up of MX servers and records can suggest the active use of the disputed domain name for email purposes and that on the other hand - based on the above mentioned circumstances - proves that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address (*JCDECAUX SA v. Handi Hariyono, CAC Case No. 102827*).

The Panel is convinced that the Trademark is highly distinctive and well-established. Furthermore, the Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals to use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **schneiderelectrlc.com**: Transferred

PANELLISTS

Name	Stefanie Efstathiou LL.M. mult.
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DATE OF PANEL DECISION	2023-03-09
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Publish the Decision
